

REMARKS

Claims

Claims 15, 17-18, 20-24, 31, and 34-35 were pending when last examined. With this Response, applicants have amended claims 15, 18, 20, 22-24, 31 and 34. No new matter has been added.

Claim Objections

Claims 15 and 22 were objected to because of informalities. The claims have been amended to delete limitations the Examiner found repetitive.

Claim Rejections – 35 USC § 103

Claims 15 and 22 were rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering in view of Kiewit in further view of Janis and Bunney. Applicants respectfully traverse the rejections.

Claim 15 recites, in part, storing a hierarchical data structure for describing user history. The hierarchical data structure includes:

- (a) a user information element to identify a user,
- (b) a first user action history of the user as a first structural element of the hierarchical data structure, the first user action history including
 - (b-1) a first data protection attribute to specify whether all information in the first user action history is protected or not, and
 - (b-2) a first list of user action items for describing the user's multimedia consumption including skipping or slow playing a piece of content, and
- (c) a second user action history of the user as a second structural element at the same level of the hierarchical data structure as the first structural element, the second user action history including

(c-1) a second data protection attribute to specify whether all information in the second user action history is protected or not, and

(c-2) a second list of user action items for describing the user's media consumption including playing or recording a content stream,

wherein each user action item in both the first and second lists records a corresponding action of the user's consumption of content from a respective multimedia program and has (i) an action time indicating when the corresponding action of the user took place and (ii) a unique content reference identifier that identifies the consumed multimedia program independent of the multimedia program's location and enables access to content related metadata that is not provided in the user history; and

wherein at least one user action item in the first list of user action items includes timing information for identifying the skipped or slow played piece of content.

The references cited by the Examiner, however, fail to disclose several of the claimed limitations. For example, the Examiner asserted that the claimed hierarchical data structure is disclosed in Eldering's FIG. 1. *See* Office Action dated 9/29/09 at 3. Instead of a hierarchical data structure, Eldering's "FIG. 1 depicts the *context diagram* of a preferred embodiment of a Subscriber Characterization System." *See* Eldering at 4:44-45 (emphasis added). Applicants respectfully submit that a skilled artisan would have readily recognized that a "context diagram" of a system is different from the claimed "hierarchical data structure." The Examiner also asserted that Eldering's part 120 in FIG. 1 corresponds to the claimed user information element in the hierarchical data structure. Eldering, however, clearly describes that, in the system of FIG. 1, part 120 represents the user itself, not a user information element in a hierarchical data structure. *See, e.g.*, Eldering at 4:57-62 ("SCS 100 receives from a user 120 commands in the form of a volume control signal 124 or program selection data 122"). *See also id.* at 6:64-7:4 ("a system control unit 200 receives commands from the user 120...[:] ...the commands are entered by the user 120 via keyboard"). Thus, Eldering fails to disclose the claimed hierarchical data structure and its user information element. Kiewit, Janis and Bunney are also lacking. Thus, because none of the cited

references discloses the claimed hierarchical data structure, no *prima facie* case of obviousness has been established and claim 15 should be allowable.

Furthermore, as the Examiner seems to admit, Eldering also lacks the claimed first and second user action histories that include respective first and second lists of user action items. Instead of the claimed two separate lists of user action items, Eldering discloses a single list of subscriber selection data 110. *See* Eldering at FIGS. 1 and 6. The Examiner pointed to Kiewit for the missing subject matter. Kiewit, however, is also lacking.

Kiewit discloses monitoring the “modes of viewing and recording” in a television/VCR system. *See* Kiewit at 5:46-51 and FIG. 3. Kiewit’s modes include Off, TV Viewing, VCR Recording, Viewing through VCR, Viewing and Recording, VCR Playback, Fast Forward, and Rewind. *Id.* Kiewit, however, fails to disclose at least two separate lists of user action items that record different actions of the user as required by the claim. For example, Kiewit discloses that “the mode of operation is recorded whenever there is a change in the mode,” but fails to disclose that the different modes are recorded in separate lists of user action items as required by the claim. *Id.* at 6:7-19. Kiewit also discloses extracting and storing a “signature” of the program in case of “Event 2s” that include scene, color or other change in the program. *Id.* at 6:59-68. Instead of recording a corresponding action of the user as required by the claim, these “Event 2s are to be used as a means of program identification.” *Id.* at 7:16-22. Thus, both Eldering and Kiewit lack the claimed first and second user action histories that include respective first and second lists of user action items.

Janis and Bunney are also lacking. Janis discloses a single document history log and Bunney discloses a single action report instead of the claimed separate lists of user action items recording different actions of the user’s consumption of content from multimedia programs. Thus, because none of the cited references discloses the claimed separate lists of user action items, no *prima facie* case of obviousness has been established and claim 15 should be allowable.

Furthermore, the Examiner admitted that Eldering and Kiewit lack the claimed first and second data protection attributes and pointed to Janis for the missing subject matter. *See* Office Action dated 9/29/09 at 5. Janis, however, is also lacking.

Janis discloses a “selective document history log in which the occurrence of only selected activities ... are recorded.” *See* Janis at 2:29-34. As an initial matter, applicants respectfully notes, that Janis fails to disclose the claimed user history describing the user’s multimedia consumption. Furthermore, according to Janis, “those skilled in the art will appreciate that such a selective document history log must include ... a characterization of those activities which are to be recorded *so that subsequent users accessing the log* may ascertain what types of activity occurrences have been recorded.” *Id.* at 4:18-24 (emphasis added). Thus, skilled artisans at the time would have also appreciated that information in Janis’s document history log was not protected from subsequent users who could access the log. Although Janis discloses that unauthorized users cannot change the selection of recorded activities, it fails to disclose that the information in the log is protected from those unauthorized users. Accordingly, Janis fails to disclose the claimed data protection attribute to specify whether all information in the user action history is protected or not, as required by the claim. Bunney is also lacking. Thus, because none of the cited references discloses the claimed protection attributes, no *prima facie* case of obviousness has been established and claim 15 should be allowable.

Furthermore, the Examiner admitted that Eldering, Kiewit and Janis lack the claimed content reference identifier that enables access to content related metadata that is not provided in the user history. *See* Office Action dated 9/29/09 at 6. The Examiner pointed to Bunney for the missing subject matter.

Bunney discloses link information that represents a network address, but Bunney’s link information is part of information distributed from a server, not the user action history as required by the claim. *See* Bunney at 4:3-6. For example, Bunney discloses an “action report” that describes user actions, but Bunney fails to disclose that the “action report” includes the link information. *Id.* at 3:58-4:2. Thus, Bunney fails to teach or even suggest

the claimed content reference identifier that enables access to content related metadata that is not provided in the user history. Because none of the cited references discloses the claimed content reference identifier, no *prima facie* case of obviousness has been established and claim 15 should be allowable.

Claim 22 is an independent claim that recites limitations similar to those discussed above with reference to claim 15. Because the cited references fail to disclose or fairly suggest these limitations, claim 22 is patentable for at least the same reasons as claim 15.

Claim 17 was rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering, Kiewit, Janis and Bunney in further view of a CIDF Website. Applicants respectfully traverse the rejection. Claim 17 depends from claim 15 and incorporates by reference all its limitations. As discussed above with reference to claim 15, Eldering, Kiewit, Janis and Bunney fail to disclose several claim limitations. The CIDF Website is also lacking. Thus, claim 17 is allowable for at least the same reasons as its base claim.

Claims 18, 20, 21, 23 and 24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering, Kiewit, Janis and Bunney in further in view of Grauch. Applicants respectfully traverse the rejection. Claims 18, 20, 21, 23, and 24 are dependent claims that incorporate by reference all limitations of their respective base claims. As discussed above with reference to base claims 15 and 22, Eldering, Kiewit, Janis and Bunney fail to disclose several claim limitations. Grauch is also lacking. *See, e.g.*, Amendment of June 4, 2009, at 9. Thus, claims 18, 20, 21, 23, and 24 are allowable for at least the same reasons as their respective base claims.

Claims 31, 34, and 35 were rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering, Kiewit, Janis and Bunney in further view of Dedrick. Applicants respectfully traverse the rejection. Claims 31, 34, and 35 are dependent claims that incorporate by reference all limitations of their respective base claims. As discussed above with reference to base claims 15 and 22, Eldering, Kiewit, Janis and Bunney fail to disclose several claim

limitations. Dedrick is also lacking. Thus, claims 31, 34, and 35 are allowable for at least the same reasons as their respective base claims.

CONCLUSION

Applicants respectfully request that the pending claims be allowed and the case passed to issue. Should the Examiner wish to discuss the Application, it is requested that the Examiner contact the undersigned at (415) 772-7493.

The Commissioner is hereby authorized to charge any additional fees, which may be required, or credit any overpayment to Deposit Account No. 50-1597.

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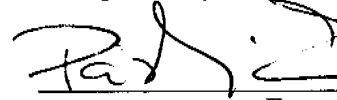
I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

November 13, 2009 **E-FILED**

Date

Signature

Respectfully submitted,



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